IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

THURSDAY, THE 21ST JUNE 2007 / 31ST JYAISHTA 1929

Bail Appl..No. 3739 of 2007()

Cr.No.227 of 2006 of Agali Police Station

: PETITIONER/ACCUSED 1 TO 3, 6 TO 12 & 14 TO 24

---

1. T.PONNU, AGED 49, S/O.RAMAN,
THACHAN KOTTIL HOUSE, MUKKALI P.O.

2. MATHEW, AGED 38, S/O.JOSEPH,
CHOLAKADA, MUKKALI.

3. SUNNY A.E., AGED 32, S/O.A.J.EAPPEN,
AMAMTURATHIL VEED, MUKKALI P.O.

4. BASHEER V.H., AGED 36,
S/O.HAMSA, VADAKKETIL VEED,
MUKKALI P.O.

5. JAYAPRAKASH, S/O.GOPALAKRISHNAN NAIR,
KIZHAKKEKARA VEED, MUKKALI P.O.

6. SHIBU ALIAS KRISHNADAS, AGED 32,
S/O.AYYAPPANKUTTY, PORIPPUKALPIL HOUSE,
MUKKALI P.O.

7. MUHAMMEDALI, AGED 30, S/O.HAMSA,
MUKKALI P.O., CHOLAKAD.

8. VINOD, AGED 24, S/O.P.C.MANI,
PUMGOTIL HOUSE, MUKKALI P.O.

9. SHIJU, AGED 27, S/O.VASU, ANIYIL HOUSE,
MUKKALI P.O., CHELAYAD.

10. DEEPU, AGED 21, S/O.BABU, PUTTAN HOUSE,
MUKKALI P.O.

11. UNNI, AGED 33, S/O.SHANKARAN,
PAYAMKUNNU.

12. YAKOOB, AGED 35, S/O.SADIQUE,
TOTTIL HOUSE, MUKKALI P.O. CHELAYAD.

13. SHIBU DEV, S/O.RAMADEVAN,
KARATUPARAMBIL VEED, MUKKALI.

14. SALEEM, S/O. AGED 40, ALIAKBAR,
MANGALTH HOUSE, MUKKALI.P.O.

15. RAMACHANDRAN, AGED 39, S/O.BALAN NAIR,
CHENAKADIL VEED, MUKKALI P.O.

16. RAMDAS, AGED 29, S/O.GOVINDAN,
MURUKKADA HOUSE, MUKKALI P.O.

17. VELUKUTTAN ALIAS SUBASH, S/O.MANI
MUCHIKUZHIYIL HOUSE, MUKKALI P.O.

18. SUPRAN ALIAS SUBRAMANIAN, AGED 33
S/O.CHELLAPPAN PILLAI, PUTTAN VEED,
MUKKALI P.O.

19. SHIVAN, AGED 28, S/O.RAMASWAMY,
KOTTIRAMKUNNU, MUKKALI, MUKKALI P.O

20. NARI ALIAS SHAJU, S/O.CHARLIE,
KOTTIYURKUNNU, MUKKALI P.O.

21. BABU, AGED 32, S/O.CHANDU, KAVUMGAL
HOUSE, KOTTIYUR KUNNU, MUKKALI P.O.

BY ADV. SRI.RAJESH NAMBIAR

RESPONDENTS: STATE

THE STATE OF KERALA, REPRESENTED BY
THE SHO, AGALI POLICE STATION,
THROUGH THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM,
KOCHI - 31.

BY PUBLIC PROSECUTOR SRI.JAI GEORGE

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 21/06/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

B.A.No.3739 of 2007

Dated this the 21st day of June, 2007

ORDER

Application for anticipatory bail. Petitioners are accused 1 to 21, who are the only accused surviving in a crime registered, inter alia, under Section 353 I.P.C and Sections 3 and 5 of the P.D.P.P Act.

2. The alleged incident took place on 26.11.2006. A compound wall in the forest officers residence complex put up by the Forest Department was allegedly pulled down by a crowd of persons including the petitioners. This in short is the allegation. Investigation is pending. Petitioners apprehend imminent arrest.

3. The learned counsel for the petitioners submits that there was no incidence of culpability at all and the petitioners who are local residents were only raising objections against the highhanded action of the forest officials in putting up the wall obstructing a public pathway, which has been there for a long period of time. That very legal and democratic opposition to the attempt to interfere with their right of way is now conveniently glorified and culpability is alleged for such conduct. In these circumstances, it is prayed that directions under Section 438 Cr.P.C may be issued in favour of the petitioners.

4. The learned Public Prosecutor only submits that if this Court were inclined to grant anticipatory bail, the same may be

subject to appropriate conditions, which shall ensure the interests of a fair, efficient and expeditious investigation.

5. I am satisfied that this is a fit case where such extraordinary equitable discretion under Section 438 Cr.P.C can be invoked in favour of the petitioners. This application is, accordingly allowed. The following directions are issued under Section 438 Cr.P.C.

i) The petitioners shall appear before the learned Magistrate at 11 a.m on 28.06.2007. They shall be enlarged on regular bail on their executing a bond for Rs.25,000/- (Rupees Twenty Five thousand only) each with two solvent sureties each for the like sum to the satisfaction of the learned Magistrate;

ii) The petitioners shall make themselves available for interrogation before the Investigating Officer between 10 a.m and 1 p.m on 29.06.2007 and thereafter as and when directed by the Investigating Officer in writing to do so;

iii) If the petitioners do not appear before the learned Magistrate as directed in clause (i), directions issued above shall thereafter stand revoked and the police shall be at liberty to arrest the petitioners and deal with them in accordance with law as if those directions were not issued at all;

iv) If the petitioners were arrested prior to their surrender on 25.06.07 as directed in clause (1) above, they shall be released on bail on their executing a bond for Rs.25,000/- (Rupees Twenty Five thousand only) without any sureties undertaking to appear before the learned Magistrate on 25.06.07.

(R.BASANT, JUDGE)

rtr/-